

REMARKS

Claims 27 and 28 have been amended and are pending in the present application.

It is respectfully submitted that the present amendment presents no new issues or new matter and places this case in condition for allowance. Reconsideration of the application in view of the above amendments and the following remarks is requested.

I. Sequence Compliance

The Office Action requested a new sequence listing, CRF, and statement that the paper listing and CRF are the same and CONTAIN NO NEW MATTER to be in Sequence Compliance under 37 CFR 1.821 (c) and (e).

Applicant submits a new sequence listing, CRF, and statement that the paper listing and CRF are the same and CONTAIN NO NEW MATTER.

II. The Rejection of Claims 27-28 under 35 U.S.C. § 112, First Paragraph

Claims 27-28 remain rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The Advisory Action stated:

AS APPLICANTS HAVE NOT DEPOSITED THE CELLS THEMSELVES, COMMERCIAL AVAILABILITY CANNOT BE GUARANTEED FOR THE LIFE OF THE PATENT SHOULD THE CELLS BE WITHDRAWN FROM THE OPEN COLLECTION BY THE ORIGINAL DEPOSITORS. Public access during the term of the patent may *affect* the enforceability of the patent.

This rejection is respectfully traversed.

Applicants submit that the microorganism recited in the claims is "known and readily available" for the reasons of record. However, to further prosecution of the present application, Applicants have deposited the strain as NRRL 30747. Claims 27 and 28 have been amended to recite "NRRL 30747".

Applicants enclose a Statement under 37 C.F.R. § 1.808 that the strain was deposited under the Budapest Treaty and all restrictions will be removed upon the granting of the U.S. patent.

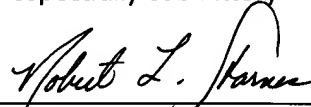
For the foregoing reason, Applicants submit that this rejection under 35 U.S.C. § 112 has been overcome and respectfully request withdrawal of the rejection.

III. Conclusion

In view of the above, it is respectfully submitted that all claims are in condition for allowance. Early action to that end is respectfully requested. The Examiner is hereby invited to contact the undersigned by telephone if there are any questions concerning this amendment or application.

Date: May 24, 2004

Respectfully submitted,

A handwritten signature in cursive script, reading "Robert L. Starnes", written over a horizontal line.

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